(2) 1818 (9)

**IN THE HIGH COURT OF JUDICATURE AT BILASPUR: CHHATTISGARH**

Single Bench

**MISC. APPEAL NO. (C) 22 OF 2006**

**APPELLANT**
**NON-APPLICANT NO. 3** The United India Insurance Company Ltd., Madina Building, Jail Road, Raipur (CG)

**Versus**

**RESPONDENTS**

1. Bhim Sahu, S/o Johatram Sahu, aged about 27 years, R/o Village - sarsopuri, Tehsil & Distt. Dhamtari (CG)

2. Sheikh Akram, S/o Shjeikh Shakoor, aged about 27 years, R/o Vivekanand Nagar, Dhamtari, Prop. National Engineering College, Ratnabandha Chowk, Dhamtari, Distt. Dhamtari (CG)

**(Non-Applicant no. 1 & 2)**

3. Khuman Singh Sahu, S/o ukhram Sahu, aged about 40 years

4. Jethin Bai W/o Khuman Singh Sahu, aged about 38 years,

**(Claimants)**

(Both R/o Village - Bhalujhulan, Tehsil - Kurud, Distt. Dhamtari (CG)

P.R. No. 2221/06 Presented by Shri Sanjay Singh dated 04.12.06

**MISCELLANEOUS APPEAL UNDER SECTION 173 OF MOTOR VEHICLES ACT, 1988**

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** ..MA..CC).22... **सन्** 2006 (20)

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|
| | **11.09.2006**<br><br>Shri Sanjay S. Agrawal, learned counsel for the appellant/Insurance Company.<br><br>Heard on I.A.No. 2489/06, application for exemption from filing copy of the order as required under Section 170 of the Act since the Insurance Company is challenging the impugned award only on the basis of breach of insurance policy as required under Section 149(2) of the Motor Vehicle Act.<br><br>For the reasons indicated in I.A.No. 2489/06, it is allowed.<br><br>Heard on admission.<br><br>Learned counsel for the appellant submits that it is admitted fact that at the time of accident there were three passengers occupying the vehicle being motorcycle and as such the vehicle was being run in contravention of the policy as only two passengers are permitted to occupy the motorcycle. However, this aspect has not been considered by the Court below.<br><br>I have heard learned counsel for the appellant and perused the impugned award passed by the Claims Tribunal<br><br>Taking into consideration that fact that while deciding issue No. 2 the learned Claims Tribunal has decided this question against the appellant by recording a finding that the Insurance Company has failed to prove that the above breach of policy was committed with the consent of owner of the vehicle and further in view of the judgment in the matter of | |

XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

**मामला क्रमांक** ..M.A.(C.).22... **सन् 2006** (21)

**आदेश पत्रक (पूर्वानुबद्ध)**

| आदेश का दिनांक तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश -2- | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश |
|---|---|---|

National Insurance Company Vs. Swarn Singh reported in 2004(1) A.C.J. 1 , I am of the opinion that there is no illegality or infirmity in the impugned award passed by the learned Claims Tribunal. Accordingly, the appeal being without substance is liable to be dismissed at the motion stage itself and the same is hereby dismissed.

In view of the above, M.C.P.No. 1364/06 stands disposed of.

**Sd/-**
**Dhirendra Mishra**
**Judge**

Khan

P.T.O.